

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 ARMIN VAN DAMME, an individual,

5 Plaintiff,

6 v.

7 JP MORGAN CHASE BANK, INC. N.A., et
8 al.,

9 Defendants.

Case No. 2:15-cv-01951-APG-PAL

**ORDER ON DEFENDANTS' MOTION
TO DISMISS AND PLAINTIFF'S
MOTION TO AMEND**

(ECF Nos. 6, 24)

10 Plaintiff Armin Van Damme has filed suit against numerous financial institutions related
11 to an alleged wrongful commencement of foreclosure on his residential property and for other
12 alleged deceptive foreclosure and lending practices. Plaintiff originally filed his complaint in
13 Nevada state court, alleging claims against all defendants for: (1) quiet title, (2) wrongful
14 foreclosure, (3) violation of the Truth in Lending Act ("TILA"), (4) breach of fiduciary duty,
15 (5) fraud, (6) breach of the duty of good faith and fair dealing, and (7) breach of contract. ECF
16 No. 1-1 at 6-33.

17 Defendants Bank of America, N.A., Bank of America Holding Corp. (formally known as
18 LaSalle Bank Corporation), and MERSCORP, Inc., removed this action to federal court under
19 federal question jurisdiction based on Van Damme's TILA claim. ECF No. 1. Subsequently, the
20 defendants moved to dismiss all of Van Damme's claims against them. ECF No. 6. In response,
21 Van Damme concedes that his claims for (1) wrongful foreclosure, (2) violation of TILA, and (3)
22 breach of fiduciary duty should be dismissed. ECF No. 24 at 8. I accept Van Damme's voluntary
23 dismissal of these claims.

24 Federal district courts have discretion to keep, or decline to keep, state law claims over
25 which they have supplemental jurisdiction pursuant to the conditions set out in 28 U.S.C.
26 § 1367(c). Section 1367(c)(3) states that a district court may decline to exercise supplemental
27 jurisdiction if "the district court has dismissed all claims over which it has original jurisdiction."
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1 While not mandatory, the court “should” decline to keep state law claims if the federal claims are
2 dismissed before trial, barring countervailing constraints. *United Mine Workers v. Gibbs*, 383
3 U.S. 715, 726 (1966) (“Needless decisions of state law should be avoided both as a matter of
4 comity and to promote justice between the parties, by procuring for them a surer-footed reading
5 of applicable law. Certainly, if the federal claims are dismissed before trial, even though not
6 insubstantial in a jurisdictional sense, the state claims should be dismissed as well.”); *see also*
7 *Acri v. Varian Associates, Inc.*, 114 F.3d 999, 1000 (9th Cir.), *supplemented*, 121 F.3d 714 (9th
8 Cir. 1997), *as amended* (Oct. 1, 1997).

9 Because Van Damme has voluntarily dismissed his TILA claim, and it is the only claim
10 over which this Court has original jurisdiction, I decline to exercise supplemental jurisdiction
11 over the remaining state law claims. Because this action was removed from state court and is in
12 its early stages, no party will be prejudiced by remanding to state court.

13 IT IS THEREFORE ORDERED that this case is remanded back to Nevada state court for
14 further proceedings on Van Damme’s remaining state law claims.

15 IT IS FURTHER ORDERED that the defendants’ motion to dismiss (**ECF No. 6**) and Van
16 Damme’s motion to amend the complaint (**ECF No. 24**) are **DENIED as moot**.

17 DATED this 16th day of May, 2016.

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21 ANDREW P. GORDON
22 UNITED STATES DISTRICT JUDGE
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